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PATENT APPLICATION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
: Examiner: Michael L. Borin
GUSTAV GAUDERNACK ET AL.)
: Group Art Unit: 1631
Application No.: 10/776,224)
:
Filed: February 12, 2004)
:
For: PEPTIDES) February 14, 2006

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT
AND PETITION FOR EXTENSION OF TIME

Sir:

Applicants petition to extend the time for response to the Official Action mailed January 3, 2006, by one month, i.e., from February 3, 2006, to March 3, 2006. A check in the amount of \$120.00 for payment of the extension fee is enclosed. Please charge any additional fee required for the extension, or credit any overpayment, to Deposit Account 06-1205.

Applicants respectfully traverse the restriction requirement set forth in the Office Action mailed January 3, 2006. Nevertheless, in order to comply with 37 C.F.R. 1.143, Applicants hereby elect Group I (Claims 33-35 and 42).

In the Office Action, the Examiner stated that the subject matters of Group I (Claims 33-35 and 42), Group II (Claims 33, 34, 36 and 43), Group III (Claims 33, 34, 37

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and 44), Group IV (Claims 45-47 and 56), Group V (Claims 45, 46, 48 and 57), Group VI (Claims 45, 46, 49 and 58), Group VII (Claims 45, 46, 50 and 59), Group VIII (Claims 38 and 39), Group IX (Claims 38 and 40), Group X (Claims 38 and 41), Group XI (Claims 51 and 52), Group XII (Claims 51 and 53), Group XIII (Claims 51 and 54) and Group XIV (Claims 51 and 55) are distinct inventions, necessitating the restriction requirement.

Applicants, however, respectfully submit that the fourteen Groups of claims are closely related and that a proper search of the claims of any one Group would likely include a search of the subject matter recited in the claims of the other Groups as well. Thus, it is submitted that all of the claims can be searched simultaneously and that a duplicative search with possibly inconsistent results may occur if the restriction requirement is maintained.

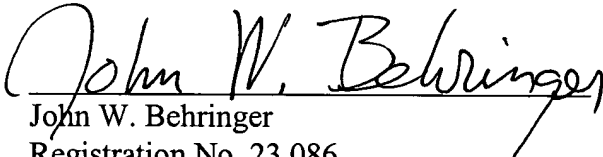
Further, in the above-referenced Official Action the Examiner has indicated that only one SEQ ID NO will be examined in this application. That is inconsistent with instructions in the Manual of Patent Examining Procedure. According to MPEP § 803.04 “normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction.” None of the factors listed in § 803.04 as necessitating a reduction in the number of sequences that may be reasonably examined (such as a recitation of three dimensional folding) are present in SEQ ID NOS: 1, 5, 7 and 9-12 of the present application. Further, Applicants note that only seven SEQ ID NOS (SEQ ID NOS: 1, 5, 7 and 9-12) are being claimed. As such, Applicants submit that, according to the policy of the U.S. Patent and Trademark Office, for the filing fee they have paid they are entitled to the examination in this application of independent Claims 33,

35-38, 45 and 47-51, and all claims dependent therefrom. That would not constitute an unreasonable burden on the Examiner and it would further the U.S. Patent and Trademark Office's public policy of aiding the biotechnology industry in protecting its intellectual property. *See id.*

In view of the foregoing, Applicants request favorable treatment of this Response and withdrawal of the restriction requirement.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,


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